Calendar No. 157

99TH CONGRESS
1st Session

SENATE

REPORT
99-74

ENERGY POLICY AND CONSERVATION AMENDMENTS ACT OF 1985

MAY 23 (legislative day, APRIL 15), 1985.—Ordered to be printed

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Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 979]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 979), to extend the expiration date of titles I and II of the Energy Policy and Conservation Act, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Energy Policy and Conservation Amendments Act of 1985".

SEC. 2. EXTENSION OF TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.

Title I of the Energy Policy and Conservaton Act is amended by adding at the end thereof the following new part:

"PART C—EXPIRATION

"EXPIRATION

"SEC. 171. Except as otherwise provided in title I, all authority under any provision of title I (other than a provision of such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1989, but such expiration shall not affect any action or pending proceedings, civil or criminal, no finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1989.".

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SEC. 3. EXTENSION OF TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.

Title II of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART D—EXPIRATION

"EXPIRATION

"SEC. 281. All authority under any provision of title II (other than a provision of such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1987, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1987.".

SEC. 4. CONFORMING AMENDMENTS.

(a) The Table of Contents for the Energy Policy and Conservation Act is amended by—

(1) adding after the item relating to section 166 the following new items:

"PART C—EXPIRATION

"Sec. 171. Expiration.";

(2) adding after the item relating to section 272 the following new items:

"PART D—EXPIRATION

"Sec. 281. Expiration."; and

(3) striking "Sec. 531. Expiration.".

(b) Section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272) is amended by striking subsection (j) and redesignating subsections (k) through (m) as (j) through (l).

(c) Section 531 of the Energy Policy and Conservation Act (42 U.S.C. 6401) is hereby repealed.

PURPOSE

The purpose of this measure, as reported by the Committee on Energy and Natural Resources, is to amend the Energy Policy and Conservation Act (EPCA) to (1) extend the expiration date of Title I from June 30. 1985, to June 30, 1989; and (2) extend the expiration date of Title II from June 30, 1985, to June 30, 1987.

BACKGROUND AND NEED

Titles I and II of the Energy Policy and Conservation Act (EPCA) contains two statutory authorities that are integral to the capability of the United States to respond domestically and internationally to a severe energy supply interruption. The most important feature of Title I of EPCA is its authorization of the construction, filling, and maintenance of the Strategic Petroleum Reserve (SPR). It also authorizes the drawdown and distribution of the SPR in accordance with the provisions of a "distribution plan". Section 2 of S. 979 extends the expiration date of Title I of EPCA from June 30, 1985, to June 30, 1989.

Title II of EPCA contains the basic statutory authority for United States participation in the International Energy Program, which is operated by the International Energy Agency (IEA). Section 3 of S. 979 relates to the expiration date of Title II of EPCA which is extended from June 30, to June 30, 1987.

STRATEGIC PETROLEUM RESERVE

The 94th Congress authorized the creation of a Strategic Petroleum Reserve (SPR) in the Energy Policy and Conservation Act (Public Law 94-163), approved December 22, 1975. That Act declared it to be United States policy that an SPR of up to 1 billion barrels of petroleum products (including crude oil) be established to reduce the impact of disruptions in petroleum supplies and to carry out the obligations of the United States under the International Energy Program.

Subsequently, as discussed below, the Congress authorized development of 750 million barrels of SPR storage capacity. In order to meet this objective, the Department of Energy (DOE) has been implementing a three-phase plan to store 750 million barrels of oil. At the end of fiscal year 1985, the SPR's inventory will have reached approximately 489 million barrels of oil.

Therefore, unlike in 1973, The United States has in place today a Strategic Petroleum Reserve with approximately 108 days of net import protection based on current import levels, and an institutional framework for cooperation among major industrialized countries—the International Energy Agency.

By comparison, other developed nations, primarily Japan and West Germany, have increased their strategic petroleum stocks from 90 million barrels in 1979 to 198 million barrels in 1984. In addition, some countries have stocks held by commercial companies but controlled by the government; for example, West Germany has approximately 144 million barrels of such controlled stocks.

SPR development plan

The Energy Policy and Conservation Act required a SPR Development Plan, which was submitted to the Congress on February 16, 1977, and became effective on April 18, 1977. The Plan provided for the development and implementation of the SPR.

SPR Plan Amendment No. 1 accelerated the planned schedule for filling the SPR. That amendment was submitted to the Congress on May 25, 1977, and became effective on June 20, 1977. That amendment contained a revised goal of 500 million barrels to be in storage by December 22, 1980, which advanced the prior schedule by 2 years.

Amendment No. 2 to SPR Plan authorized an increase in the SPR size from 500 million barrels to 1 billion barrels of stored oil. This amendment, which was transmitted to the Congress on May 18, 1978, became effective on June 13, 1978. Amendment No. 2 described DOE's plans for storage of 750 million barrels of petroleum products in underground storage facilities. No proposal was made then, or since, regarding the methods or timing for developing the final 250 million barrels of storage capacity.

Phase I of the SPR Plan, which involved the storage of about 260 million barrels of oil, is now complete. It consisted of acquiring and modifying for oil storage existing caverns in salt deposits at Bryan Mound, Texas; Bayou Choctaw, Sulphur Mines, and West Hackberry, Louisiana; and a salt mine at Weeks Island, Louisiana, as well as constructing a marine terminal at St. James, Louisiana. Phase II, which is scheduled for completion in 1987, involves creat-

ing new caverns through a leaching program at three of the phase I sites to increase SPR capacity to about 550 million barrels. The leaching program entails pumping fresh water into salt deposits and removing the resultant brine. DOE injects oil into the top of the cavern as the leaching process creates the storage capacity. Phase III, which is scheduled for completion in 1990, is designed to create additional capacity to reach the authorized 750-million-barrels of storage capacity by expanding three existing storage sites and developing a new site at Big Hill, Texas. Because of the time needed to develop capacity, activities associated with phases II and III have overlapping schedules.

SPR distribution plan

The DOE submitted to the Congress the SPR Distribution Plan (Amendment No. 3, Energy Action No. 5) on October 31, 1979, which became effective on November 15, 1979. The Distribution Plan described the methods for drawdown and distribution of crude oil from the five SPR storage sites.

On December 1, 1982, President Reagan transmitted to the Congress a new "Drawdown" (Distribution) Plan (Amendment No. 4) for the use of the SPR. This plan, required under the Energy Emergency Preparedness Act of 1982 (EEPA), became effective upon its December 1, 1982 submission to the Congress. It provides new procedures for the drawdown and distribution of crude oil from the SPR.

In the Administration's judgment, if a major supply disruption should occur, the early sale of SPR oil in large volumes ordinarily is the best policy for SPR use. The rapid replacement of oil lost because of a disruption will mitigate price increases pending establishment of a new worldwide supply and demand equilibrium.

In this regard, on July 11 last year, the IEA governing board reached a landmark decision on the use of stocks. The members agreed that the early drawdown of emergency stocks in the case of an oil supply disruption, and other mutually supportive actions to restore the supply and demand balance, are vital elements in minimizing economic damage. This decision provides a basis for coordinated stock draw in an emergency. A new consultative mechanism—open to all OECD members—provides an opportunity for key energy consuming nations to meet quickly and informally in a crisis. This group will be free to decide on and implement a coordinated stock draw by its participants. This decision of the governing board illustrates both the dynamic nature of the IEA as an institution and the continuing effort within that agency to improve the energy security of its members.

INTERNATIONAL ENERGY AGENCY

Another key component of the U.S. energy emergency preparedness program is maintaining a continuing commitment to the International Energy Program. Effective U.S. participation in the International Energy Agency is essential if that agency is to act effectively in the event of a severe international energy supply interruption.

There are presently 21 signatories to the International Energy Program (IEP) consisting of most of the principal industrialized oil consuming nations. The IEP agreement provided for creation of the International Energy Agency (IEA) as an autonomous entity within the Organization for Economic Cooperation and Development. It also established an international oil sharing system for use during oil supply emergencies, as well as an information system on the international oil market. Each country was required to establish emergency petroleum reserves, and to have a means for restraining demand for petroleum products in the event of an interruption of petroleum supplies to the IEP countries.

Section 252 of EPCA sets out procedures applicable to the development and carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the ISP. Pursuant to this authority, effective March 21, 1976, U.S. oil companies entered into the Voluntary Agreement and Plan of Action to Implement the International Energy Program (the Voluntary Agreement) (41 F.R. 13998, April 1, 1976). At present, 20 U.S. oil companies, including both major international oil companies and independent oil companies, are participants in the Voluntary Agreement.

The antitrust defense made available by section 252(f) of EPCA is essential to the participation of U.S. oil companies in the Voluntary Agreement and, through it, in the IEP. The IEP, in turn, can function effectively only with participation by U.S. and foreign oil companies in the international oil market. Those companies would be the primary actors in the redistribution of oil if the IEP's emergency sharing provisions were activated.

There are three major benefits of our participation with our allies in the IEP emergency sharing system. First, the IEP emergency system provides a mechanism that mitigates the economic damage from an interruption of oil imports. Under the terms of the IEP's emergency oil allocation system, our IEA partners guarantee that in a major oil crisis, the U.S. will not absorb a greater portion of an oil supply shortage than that which they themselves are absorbing. For this assurance, the United States in turn has made a similar pledge.

Second, it has long been a fundamental tenet of our national security policy that the safety of the United States is inextricably linked to that of its allies in Western Europe and the Far East. Over the years the United States has made enormous sacrifices and investments in support of those alliances. The U.S. commitment to the IEA and its sharing system is one of those investments.

An interruption of major proportions could provoke a divisive competition for oil supplies among our allies in Europe and the Far East. Those more dependent than the United States on oil imports would be under strong pressure to make the accommodations necessary to secure vital oil supplies. Such accommodations could seriously affect the ability of the United States to deal with the oil supply interruption, and might well alter the shape of our alliances in the future. The IEA sharing system is designed to reinforce these alliances during an energy crisis.

In addition, competitive panic buying among the major industrialized countries can lead to exaggerated price rises. The resultant economic damage could be severe. Cooperation, including exchange of information and the sharing of available oil supplies, would help stabilize markets and thereby avoid unnecessary economic damage. Further, both the IEA agreement and U.S. policy place heavy emphasis on individual country stock levels. Currently, most IEA countries have in excess of 90-days of imports in stock. This is another element that would contribute significantly to price stability in a major disruption.

The third major benefit of our participation in the IEA is the opportunity it provides for consultation and coordination among governments. Examples of this kind of cooperation are many, but one of the most recent and compelling concerned the Soviet gas pipeline. A contentions and divisive problem was successfully resolved through IEA efforts culminating in the Energy Requirements and Security Study conducted by the combined IEA/OECD Secretariat. IEA and OECD ministers in May of this year endorsed a set of policy conclusions drawn from the study that establish principles for the secure development and use of natural gas and create a framework for continued review of gas security issues. Through this study and follow-up efforts now underway, OECD countries are a good deal more aware of gas security issues and are committed to avoiding undue dependence on any single source of gas.

CONCLUSION

Titles I and II of EPCA are viewed by the Administration as "vital to U.S. energy security and to our ability to fulfiil our international energy commitments". (Testimony of Allan Wendt, Deputy Assistant Secretary of State for International Energy and Resource policy, on May 1, 1985.)

As concluded by Deputy Energy Secretary Danny J. Boggs, "given the favorably world energy situation, and given the progress which we have made in our emergency preparedness programs, an extension of the EPCA will help us maintain our current SPR policies and honor our commitments to our IEA allies."

Lapse of these authorities would be particularly unfortunate since a Ministrial meeting of the International Energy Agency is scheduled for July 9. This meeting marks the 10th anniversary of the IEA.

Moreover, as noted by Assistant Secretary Wendt, "a lapse in EPCA would undermine confidence in our commitment to this endeavor, both at home and in IEA capitals, and encourage complacency, which can undo the good work of the past decade."

It is fair to conclude that our participation in the IEA is as relevant to our security interests today as it was when the agency was created in 1974.

LEGISLATIVE HISTORY

On April 23, 1985, Chairman James A. McClure introduced S. 979, the Energy Policy and Conservation Amendments Act of 1985, a bill to extend the expiration date of titles I and II of the Energy Policy and Conservation Act, and for other purposes.

The Full Committee conducted a hearing on May 1, 1985, with oral testimony from the Department of Energy and the Department of State. In addition, the Department of Justice filed a statement for the record.

At business sessions on May 15 and 22, 1985, the Committee considered S. 979 and amendments thereto. The Committee on May 22, 1985, ordered the bill, as amended, to be reported favorably.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on May 22, 1985, considered S. 979 and by vote of a quorum present recommends that the Senate pass S. 979, as described herein.

During the Committee's consideration of the bill, votes were taken on amendments to the bill. These votes were taken in open business session, have been announced publicly by the Committee, and are included in the minutes of each session in accordance with the requirements of section 133(b) of the Legislative Reorganization Act of 1946, as amended.

The rollcall vote on reporting the measure was 13 yeas, 2 nays as follows:

YEAS	NAYS
Mr. McClure	Mr. Nickles
Mr. Hatfield	Mr. Bradley
Mr. Weicker*	
Mr. Domenici*	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski	
Mr. Hecht	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers*	
Mr. Ford	
Mr. Rockefeller	

Committee Amendment

The Committee amendment in the nature-of-a-substitute retains the 4-year extension of title I of EPCA as in S. 979, as introduced.

The amendment provides a 2-year extension of title II of EPCA, rather than the 4 years in the original bill.

In addition, the amendment makes technical changes to effectuate these extensions and amends the table of contents of EPCA.

Section-by-Section Analysis

SHORT TITLE (SEC. 1)

Section 1 provides that the short title is the "Enemy Policy and Conservation Amendments Act of 1985".

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*Indicates voted by proxy.

EXTENSION OF TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT (SEC. 2).

Section 2 extends the expiration date of title I of EPCA from June 30, 1985, to June 30, 1989.

EXTENSION OF TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT (SEC. 3)

Section 3 extends the expiration date of title II of EPCA from June 30, 1985, to June 30, 1987.

CONFORMING AMENDMENTS (SEC. 4)

Section 4(a) makes conforming changes to the table of contents in EPCA.

Section 4(b) strikes section 252(j) to reflect the changes to EPCA by section 2.

Section 4(c) repeals section 531.

COST AND BUDGETARY CONSIDERATIONS

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 23, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 979, the Energy Policy and Conservation Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 979.

2. Bill title: Energy Policy and Conservation Amendments Act of 1985.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, May 22, 1985.

4. Bill purpose: The bill extends the expiration date of Title I of the Energy Policy and Conservation Act of 1975 (EPCA), from June 30, 1985 to June 30, 1989; and it extends the expiration date of Title II of EPCA from June 30, 1985 to June 30, 1987. The principal feature of Title I is authorization of construction and oil acquisition for the Strategic Petroleum Reserve. The principal feature of Title II is the authority for U.S. participation in the International Energy Agency (IEA).

5. Estimated cost to the Federal Government: Under CBO baseline assumptions, the continuation of the authorization for the Strategic Petroleum and for International Energy Agency activities would have the following budget impact.

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
On budget:					
Estimated authorization level	296	208	161	125	.....
Estimated outlays	104	220	204	155	87
Off budget:					
Estimated authorization level	1,670	1,700	1,771	1,246	.....
Estimated outlays	722	1,699	1,732	1,804	424
Total on and off budget:					
Estimated authorization level	1,966	1,908	1,932	1,371	.....
Estimated outlays	831	1,919	1,936	1,959	511

The costs of this bill fall within budget function 270. Construction for the Strategic Petroleum Reserve is authorized on-budget, while oil acquisition for the reserve is currently an off-budget activity. Costs for International Energy Agency participation are included in the on-budget estimates.

The extension of EPCA also continues an existing authorization for up to $750 million in loan guarantees for the development of new underground coal mines. No such guarantees have been made or are expected to be made in the near future.

Basis of estimate: The estimates of authorization levels for on-budget activity are CBO's baseline projections, reflecting the current construction schedule for the Strategic Petroleum Reserve, including adjustments for inflation. Additional costs for U.S. participation in International Energy Agency activities relevant to EPCA are estimated to average approximately $164,000 per year through June 30, 1987. These costs are included in the on-budget estimates provided above. The estimated authorization levels for off-budget activity are based on the current reserve fill rate of 159,000 barrels per day, as mandated by the Congress, and CBO estimates of costs per barrel for oil that is acquired for the reserve. Since the authority for the Strategic Petroleum Reserve is extended through June 30, 1989 by the bill, the estimated authorization levels reflect continued budget authority for Strategic Petroleum Reserve construction and the oil purchase obligations through June 30, 1989. CBO assumes that all amounts authorized are appropriated and that all spending will occur at historical rates.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On may 23, the Congressional Budget Office prepared a cost estimate for H.R. 1699, as ordered reported by the House Committee on Energy and Commerce on May 22, 1985. H.R. 1699 extends both Titles I and II to June 30, 1989. In addition, H.R. 1699 includes a directive for a test drawdown of the Strategic Petroleum Reserve. The estimate for H.R. 1699 includes outlays of $0.4 million in fiscal years 1986 and 1987 for administration of a test drawdown. The test drawdown costs and additional

IEA costs associated with H.R. 1699 result in a difference of less than $1 million between the S. 979 and H.R. 1699 estimates.

9. Estimate prepared by: Pete Fontaine.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 979.

The bill does not require the promulgation of any new regulations, but simply extends existing law. Therefore, it is the Committee's judgment that the bill is not a regulatory measure in the sense of imposing new or additional Government-established standards of significant economic responsibilities on private individuals or businesses.

No personal information would be collected in administering any program under the bill. Therefore, there would be no impact on personal privacy from enactment of the bill.

It also is the Committee's opinion that little, if any, additional paperwork would result from enactment of S. 979.

Executive Communication

The pertinent legislative communications received by the Department of Energy, Department of State, and Department of Justice setting forth executive agency recommendations relating to S. 979 are set forth below:

STATEMENT OF DANNY J. BOGGS

DEPUTY SECRETARY

U.S. DEPARTMENT OF ENERGY

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

MAY 1, 1985

Mr. Chairman and Members of the Committee, I appreciate this opportunity to appear before you to discuss energy emergency preparedness, and to present the Administration's position on extending the Energy Policy and Conservation Act (EPCA).

Energy Situation

I am pleased to report that America's energy situation has improved. Last year the U.S. economy grew 7 percent, while oil consumption increased by only 3 percent. This continues a 10-year trend of increasing energy efficiency. Total energy consumption in 1984 was lower than that of 1973, and was far below what would have resulted from a continuation of pre-1973 trends. Yet economic output over the same period increased by nearly a third in real terms. To illustrate the gains in economic and energy efficiency we achieved over that period, the amount of energy required to produce a constant dollar of gross national product has fallen by more than 20 percent since 1973, including a 2 percent decline in 1984.

Another aspect of our improved energy situation is the dramatic reduction over the past few years in petroleum imports. Net petroleum imports (excluding SPR imports) have declined from 46 percent of total U.S. oil consumption in 1977, the peak year for imports, to 28 percent of a smaller level of consumption in 1984. President Reagan's complete decontrol of domestic oil prices was a major factor in encouraging domestic oil production and

reducing U.S. dependence on foreign oil. U.S. oil production, despite declining wellhead prices, has increased every year since 1980.

In addition, vulnerability to oil supply disruptions is much lower today than it was in the 1970s. Two major developments in the world oil market caused this reduced vulnerability. First, worldwide dependence on oil from the Persian Gulf has declined significantly. Crude oil production from Persian Gulf countries declined by 48 percent from 1973 to 1984, while production from both non-OPEC free-world countries and the communist bloc increased by 47 percent. During the period 1973 to 1979, Persian Gulf producers acccunted for 34 to 38 percent of world crude oil production. Today they account for only 20 percent.

Moreover, consumers switched from oil to other energy forms. Dependence on oil as a source of energy in the U.S. declined from 49 percent in 1978 to 42 percent last year. The trend in the world as a whole was virtually identical, with oil declining from 48 percent to 42 percent of total energy consumption. As a result of the divergent trends in oil production within and outside the Persian Gulf and the worldwide shift from oil to other energy sources, dependence on the Gulf has declined dramatically from 17 percent of all world energy requirements in 1978 to 9 percent last year.

The second major development is that there is about 9 million barrels per day of excess oil production capacity worldwide, of

which about 3 million barrels per day is outside the volatile Persian Gulf. This excess production capacity has been caused by reduced oil demand worldwide, coupled with increased production from more secure sources, notably the North Sea and Mexico. The current excess production capacity could be tapped in a crude oil supply interruption to offset lost production.

In other important respects, we and our allies are far better prepared to deal with oil supply disruptions. The progress is significant and permanent:

- Our oil "insurance policy," the Strategic Petroleum Reserve (SPR), will contain 489 million barrels by the end of FY 1985, which is the equivalent of approximately 110 days of 1984 net petroleum imports (excluding SPR imports). Other developed nations, primarily Japan and West Germany, have increased their strategic stocks from 90 million barrels in 1979 to 198 million barrels in 1984. In addition, some of them (primarily West Germany) have 144 million barrels in stocks held by commercial companies but controlled by the government.

- As mentioned previously, counterproductive controls on U.S. oil markets have been abolished. These controls amplified past supply disruptions in the U.S. Their elimination will make any subsequent disruption less difficult for the American people to handle.

Partial deregulation of the natural gas market is also an encouraging development. On January 1, 1985, about 50 percent of domestic natural gas production was decontrolled under the Natural Gas Policy Act. Partial decontrol will increase competition in the natural gas market. Natural gas prices have already fallen in real terms and may well continue that trend during the next few years. The Administration supports comprehensive deregulation to promote even greater competition and provide American gas consumers with lower and more stable natural gas prices. Additionally, a free natural gas market will allow more flexibility for fuel switching in the case of an energy supply disruption.

These are grounds for confidence but not complacency. International economies are interdependent, and most of our trading partners are more vulnerable to supply disruptions than we are. A major crisis in international energy markets, although unlikely in the foreseeable future, would be felt here as well as abroad. The prudent policy for all Americans, as well as their Government, is to continue to work towards further deregulation of U.S. energy markets, so that the favorable trends of the past few years can continue. A firm commitment to policies that rely on the dynamic forces of the marketplace will contribute to this Nation's energy and economic security and that of our allies. Emergency preparedness efforts at all levels should also continue.

Emergency Preparedness Program

The Administration's energy emergency preparedness program consists of several critical components. The most important of these is permitting the market to operate freely and efficiently, unfettered by government regulation or other intervention, both in periods of surplus and during supply emergencies.

The Strategic Petroleum Reserve is a second key element. This Administration has made a strong commitment to the SPR. By the end of this fiscal year, we, with the support of Congress, will have increased the amount of oil in storage by 378 million barrels, more than quadrupling what was in storage when this Administration took office. This insurance investment, which will total some $16.7 billion by the end of this fiscal year (excluding carrying costs), coupled with a more diversified, competitive world oil market, provides this Nation with substantial protection against the potential for oil import reductions in the foreseeable future, a level of protection that fully satisfies U.S. security requirements.

Another important component of our emergency preparedness program is the United States' continuing commitment to the International Energy Agency (IEA) to assure mutual preparedness in the event of a major supply disruption. We are fully aware of the interdependence of our energy security with that of the rest of the free world. Therefore, it is important that we maintain our

strong commitment to the IEA. One example of our cooperative efforts is the recent IEA Governing Board decision regarding coordinated drawdown of strategic stocks. This decision recognizes the value of using stocks early in a significant supply disruption and establishes a means by which such drawdown can be implemented on a coordinated basis.

Energy Policy and Conservation Act

In order to continue our emergency preparedness efforts, the Administration favors a simple extension of the Energy Policy and Conservation Act (EPCA) through June 30, 1989. Major provisions of this Act contained in Title I and Title II are scheduled to expire on June 30, 1985. Title I authorizes, among other things, the construction and filling of the Strategic Petroleum Reserve (SPR), and provides for Presidential authority to draw down the SPR in a "severe energy supply interruption" or to meet U.S. obligations under the International Energy Program (IEP). Title II facilitates U.S. participation in the IEA. Among other things, it provides limited antitrust and breach-of-contact protections for U.S. oil companies to share oil voluntarily under the IEA's emergency oil sharing system, and provides the needed authority to make information available to the IEA.

These are the essential provisions that provide the authorities needed by the Administration to prepare for and respond to energy

emergencies. Acting under these authorities, we have achieved the level of emergency preparedness that has been discussed today.

While the existing statute is not perfect, the authorities granted are sufficient to continue our emergency preparedness activities. In view of the impending expiration date, we believe the best available approach is to extend the current law for four years. This is the course most likely to ensure that these authorities do not lapse on June 30 of this year.

Such an approach should not be viewed as an endorsement of all the provisions in this complex Act. Some provisions run counter to the Administration's policy and are not necessary for effective emergency preparedness. Nevertheless, we do not believe these provisions would hinder our ability to utilize the critical authorities previously discussed.

Conclusion

Given the favorable world energy situation, and given the progress which we have made in our emergency preparedness programs, an extension of the EPCA will help us maintain our current SPR policies and honor our commitments to our IEA allies.

This concludes my prepared testimony. I will be happy to answer questions.

STATEMENT OF E. ALLAN WENDT

DEPUTY ASSISTANT SECRETARY FOR

INTERNATIONAL ENERGY AND RESOURCES POLICY

U. S. DEPARTMENT OF STATE

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

MAY 1, 1985

Good Morning. I am Allan Wendt, Deputy Assistant Secretary for International Energy and Resources Policy at the State Department. We work closely with the Department of Energy on the international aspects of U.S. energy policy, and in particular our participation in the International Energy Agency. I appreciate this opportunity to testify on S#979 which would authorize the extension for four years of Titles I and II of the Energy Policy and Conservation Act (EPCA).

These titles expire on June 30 of this year. The Administration strongly favors simple extension through June 30, 1989. Title I created the Strategic Petroleum Reserve. Title II provides the basis for U.S. participation in the 21-member International Energy Agency. Together these EPCA provisions are vital to U.S. energy security and to our ability to fulfill our international commitments in the energy sphere.

Although the world oil market has been favorable, we must not drift into complacency on energy issues. A lapse in EPCA would convey the impression internationally that the U.S. is not serious about energy security.

It would be particularly unfortunate since a Ministerial meeting of the International Energy Agency is scheduled for July 9. This meeting marks the tenth anniversary of the IEA.

On the agenda will be a retrospective look at the progress achieved in the last decade, the lessons learned, and the challenges that lie ahead in maintaining and strengthening our energy security. We would not want to go into that meeting without the legislative authority needed to enable us to respond effectively in an energy emergency.

A decade ago, the Western world was thrown into crisis by the loss of less than 3 million barrels of oil per day. Since then, world oil production has declined by about 2 million barrels per day, and OPEC production by 13 million barrels per day. We face frequent attacks on oil transportation in the Persian Gulf. What has happened to enable the oil market to respond not with drastic price increases, but with stability, and even a price decline? A key reason is that worldwide, we now estimate that 10 million barrels of surplus oil production capacity exists.

First, we have made great strides in increasing primary energy production, energy conservation and diversification by OECD members. Between 1973 and 1984 IEA countries increased oil output by about 20 percent, coal by about 30 percent and nuclear by over 350 percent. At the same time, structural changes made IEA nation economies less energy-intensive -- the

energy to GDP ratio declined by nearly 20 percent. We also diversified our sources of supply. In terms of suppliers, the Persian Gulf supplied only 9 percent of world energy requirements in 1984 compared with 17 percent in 1978. With respect to fuel usage, in 1984 oil provided about 43 percent of total energy requirements of IEA members compared to 52 percent in 1973.

A second and equally important reason for our enhanced energy security is emergency preparedness. Unlike 1973, we have in place today a strong Strategic Petroleum Reserve with 108 days of net import protection, and a an institutional framework for cooperation among major industrialized countries -- the International Energy Agency.

No matter how successful we may be in conserving energy and diversifying away from oil, we need to continue to be prepared for a possible disruption to world oil supplies. We value our good trading relations with our oil suppliers, but at the same time we must recognize that, for many reasons, normal trade flows can be and have been disrupted. Such disruptions, if they are severe, may be enormously costly to our economies. And a disruption in any part of the world can affect the U.S., since the oil market is a global and fungible one. Severe shortages can do damage to us here by driving up prices in the world market.

We believe that adequate oil stocks and a cooperative approach by major industrialized nations are the key factors in minimizing the economic damage of a supply disruption. All IEA members are pledged to maintain total stocks equivalent to 90 days of net oil imports. This requirement can be met either through privately held or government owned stocks. Most IEA members rely on private stocks. The U.S. Government-owned Strategic Petroleum Reserve, which was insignificant in the 1970s, will hold 489 million barrels of oil at the end of this fiscal year. This is far more than any IEA country, even those that are heavily dependent on Middle East oil. The degree of coverage in terms of days of net oil imports will be equivalent to the protection envisioned when the 750 million barrel target was established. Thus, the Strategic Petroleum Reserve, coupled with privately held stocks of approximately 1 billion barrels, provides ample protection far exceeding our obligations under the International Energy Program. Other major oil users, including the Federal Republic of Germany and Japan, also own or directly control substantial stocks, and we continue to encourage our IEA partners to increase their stocks.

We believe that, in major disruption, the early sale of SPR oil in large volumes ordinarily is the best policy for SPR use. This policy makes it possible to replace rapidly some oil lost because of disruption and, therefore, to reduce price increases while worldwide supply and demand reach equilibirium. The market place needs to know in advance that this is our general policy so that unnecessary panic behavior can be avoided. On July 11 last year, the IEA Governing Board reached a landmark decision on the use of stocks. The members agreed in concept that the early drawdown of emergency stocks in the case of an oil supply disruption, and other mutually supportive actions to restore the supply and demand balance, are vital elements in minimizing economic damage. This decision provides a basis for coordinated stock draw in an emergency. A new consultative mechanism--open to all OECD members--provides an opportunity for key energy consumers to meet quickly and informally in a crisis. This group will be free to decide on and implement a coordinated stock draw by its participants. This decision of the Governing Board illustrates the dynamic nature of the IEA as an institution and the continuing effort within that agency to improve the energy security of its members. It also reflects increased awareness of the importance of a market-oriented approach to emergency preparedness, an approach based on increasing supplies and restraining demand rather than allocating oil.

In my comments on the SPR and the importance of oil stocks, I have noted the importance of the IEA. I would like to comment more directly, and in more general terms, on its value to us. The existence of the IEA is clear evidence of a commitment by its member states - most major industrialized nations - to cooperation rather than competition in responding to a serious oil supply disruption. The creation of an emergency oil sharing system was a concrete result of the decision to cooperate. We remain committed to that system, but as I have already indicated, market reliance supplemented by stocks are today our preferred first line of defense. My main point here is that the IEA provides a forum to permit member countries to coordinate activities in the event of a crisis. The U.S. benefits from this cooperative approach, as do all other IEA member states.

The IEA also buttresses our national security interests from a strategic perspective. It has long been a fundamental tenet of our national security policy that the safety of the United States is inextricably linked to that of our allies in Western Europe and the Far East. Over the years, we have made enormous sacrifices in support of these alliances -- because they are in our own global interests. Our investment in the IEA is one of the smaller of these sacrifices. Most of our

allies are more dependent on imported oil than we -- and some of our allies are nearly totally dependent on imported oil. A cut-off of oil supplies to our IEA partners would have a serious impact on their interests as well as our own. That is why we have encouraged our import dependent allies to hold strategic stocks. The IEA is designed to protect our interests and our alliances in a time of energy crisis, and to distribute the burden of dealing with disruptions in an equitable manner.

In addition to mechanisms for coping with a supply emergency -- the oil allocation system and the new stock mechanism -- the Agency provides an important and readily available forum for consultations on longer-term considerations. The Agency is playing an important role in the identification and reduction of barriers to the operation of market forces in the international energy sector, as well promoting the development of indigenous IEA energy resources, the safe use of coal and nuclear power, conservation and international collaboration in energy research and development. It also provides a forum for dealing with basic energy security issues. In May of 1983, for example, IEA Ministers addressed new concerns over natural gas security by agreeing to avoid undue dependence on any one source of gas imports, and to obtain future gas supplies from secure sources, with emphasis on indigenous OECD sources.

I would like to comment on one unique feature of EPCA -- Section 252. It provides authority for extending an anti-trust defense to companies participating in the IEA system of voluntary offers to supply and receive oil on a market related basis in a supply disruption. Company participation in the IEA is essential to the implementation of the emergency oil allocation system, and to the more market-oriented approach the IEA has taken in recent years. We and most of our IEA partners recognized in the beginning that governments do not manage commercial operations well. Over the past ten years, therefore, we have developed a system that ensures the cooperation and help of the companies -- those who normally conduct the bulk of international oil trade -- to make the allocation system work. This should remain an integral part of the system in the future as well.

I would conclude, Mr. Chairman, by observing that the United States has significantly strengthened its emergency preparedness during this Administration. We continue to work both domestically and in cooperation with our IEA partners to further enhance our energy security, both with respect to emergency preparedness and to longer-term development of secure sources of energy supply at reasonable prices. EPCA is essential to our efforts, both in the concrete sense of providing specific legislative authorization to relevant

programs but also in a symbolic sense. A lapse in EPCA would undermine confidence in our commitment to this endeavor, both at home and in IEA capitals, and encourage complacency, which can undo the good work of the past decade.

This concludes my prepared testimony. I will be happy to answer any questions.

U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Field Committee File

Office of the Assistant Attorney General

Washington, D.C. 20530

May 10, 1985

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman McClure:

This letter responds to your request for the views of the Department of Justice on S. 979, a bill to extend the expiration date of titles I and II of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. § 6201 et seq., and to extend the expiration date of section 252 of that Act, 42 U.S.C. § 6272. Section 2 of S. 979 would amend section 531 of EPCA by extending the expiration date of all authority granted under titles I and II of EPCA from June 30, 1985, to June 30, 1989. Title I of EPCA authorizes, among other things, construction and filling of a Strategic Petroleum Reserve (SPR), and Presidential authority to draw down and distribute the reserve in case of "a severe energy supply interruption" or to meet the "obligations of the United States under the International Energy Program." 1/ Title I also provides the President with discretionary power to restrict exports of energy supplies and to require accelerated production of crude oil or natural gas from designated fields. Title II of EPCA provides the President with discretionary power to direct the preparation and implementation of energy conservation contingency plans and to take actions necessary to fulfill the obligations of the United States under the International Energy Program (IEP). Title II also authorizes the development and carrying out of voluntary agreements and plans of action under prescribed circumstances, and the transmittal, by the United States government, of energy-related data to the IEA.

Section 3 of S. 979 would amend section 252(j) of EPCA to extend the effective expiration date of section 252 from June 30, 1985, to June 30, 1989, thereby extending the antitrust and breach of contract defenses provided by section 252 through June 30, 1989. Section 252(f) of EPCA provides a limited antitrust defense and section 252(k) provides a breach of

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1/ 42 U.S.C. § 6241(d).

contract defense to United States oil companies participating in voluntary agreements or plans of action to assist in carrying out the allocation and information provisions of the IEP. Those provisions of the IEP provide, inter alia, for oil companies to assist IEA member governments in learning more about developments in the international oil market. They also provide for U.S. oil companies to cooperate with the oil companies of other industrialized nations in developing, and, in the event of an oil supply disruption, in implementing, the emergency oil sharing system of the International Energy Agency (IEA).

The Department of Justice supports enactment of the bill. Deputy Secretary Danny J. Boggs of the Department of Energy testified for the Administration on March 27, 1985, in support of a simple extension of EPCA before the House Energy and Commerce Subcommittee on Fossil and Synthetic Fuels. As to enactment of section 2 of the bill, the Department of Justice defers to those divisions and agencies more directly concerned with the need for the energy-related authorities granted under EPCA. The Department supports section 3 of the bill which would extend for four more years the effective date of the antitrust and breach of contract defenses provided for actions by United States oil companies in developing or carrying out approved voluntary agreements or plans of action.

The Department of Justice has testified and reported in favor of extensions of the antitrust defense in the past. Neither the antitrust nor the breach of contract defense is likely to result in harm to competition because of three important limitations contained in the statute. First, the defenses apply only to actions taken in accordance with a voluntary agreement or plan approved by the Attorney General, after consultation with the Federal Trade Commission. 2/ The Attorney General has the power to discontinue approval prospectively. 3/ Second, the antitrust defense does not apply to actions taken for the purpose of injuring competition. 4/ Finally, the defenses apply only to voluntary agreements or plans designed to deal with emergencies of more than a seven percent shortfall as defined in the IEP. 5/

2/ 42 U.S.C. § 6272(d)(1).

3/ Id.

4/ 42 U.S.C. § 6272(f)(1).

5/ See 42 U.S.C. § 6272(m).

In addition to these direct limitations on the defenses, EPCA imposes several procedural safeguards designed to prevent risk to competition. These safeguards include a requirement that the Attorney General and Federal Trade Commission monitor actions taken under the voluntary agreement, 6/ and report to Congress on the impact of such actions on competition and on small business. 7/ Based on our monitoring of industry activities, the Department has consistently reported that it has found no adverse impact on competition or small business as a result of the activities of U.S. oil companies under the IEP. 8/

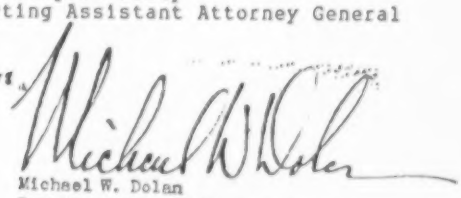
Without the antitrust or breach of contract defenses, U.S. companies might very well reduce or discontinue their assistance to the IEA. Without U.S. company participation, the emergency oil sharing system of the IEA could not function. The Department of Energy, in its testimony on this proposed legislation, stressed the Administration's commitment to the IEA. So long as there remains a need for intergovernmental cooperation on international energy matters, the limited statutory defenses for U.S. oil companies participating in IEA programs should be continued. Accordingly, the Department of Justice supports enactment of S. 979.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Phillip D. Brady
Acting Assistant Attorney General

By:



Michael W. Dolan
Deputy Assistant Attorney General
Office of Legislative and
Intergovernmental Affairs

6/ 42 U.S.C. § 6272(e)(1).

7/ 42 U.S.C. § 6272(1).

8/ See, e.g., Thirteenth and Fourteenth Reports of the Attorney General, Pursuant to Section 252(1) of the Energy Policy and Conservation Act, as of September 30, 1983 and February 29, 1984.

MINORITY VIEWS OF MR. BRADLEY

I voted against reporting this bill because it contains insufficient authorities to enable the President to act during an oil supply disruption to protect public health, welfare and the national interest. The bill should contain additional authorities to make the Strategic Petroleum Reserve a powerful and effective tool in a disruption, and it should contain additional authorities to provide emergency financial assistance to State governors during an energy emergency.

Those who are satisfied with the existing authorities should vote for this bill when it comes comes before the full Senate. Those who are concerned that this Nation is not prepared for the next oil supply disruption may wish to consider elements of my emergency preparedness bill, S. 997, which I will offer on the floor as amendments to S. 979.

BILL BRADLEY.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law which would be made by the bill, S. 979 as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLES I AND II, ENERGY POLICY AND CONSERVATION ACT

Public Law 94-163, as Amended

AN ACT To increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act".

[42 U.S.C. 6201 note]

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[1] Public Law 94-385 added section 367, but did not amend the table of contents.

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TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

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PART B[1] STRATEGIC PETROLEUM RESERVE

DECLARATION OF POLICY

SEC. 151. (a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or the carry out obligations of the United States under the international energy program.

DEFINITIONS

SEC. 152. As used in this part.

(1) The term "Early Storage Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 155.

(2) The term "importer" means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) The term "Industrial Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products, owned by importers or refiners and acquired, stored, or maintained pursuant to section 156.

(4) The term "interest in land" means any ownership or possessory right with respect to real property, including ownership in fee, and easement, a leasehold, and any subsurface or mineral rights.

(5) The term "readily available inventories" means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term "refiner" means any person who owns, operates, or controls the operation of any refinery.

(7) The term "Regional Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 157.

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[1] Section 805 of the Energy Security Act (set forth in part D of volume I of this compilation provided for the allocation of lower tier crude oil to the Reserve while the entitlements program was effective under the emergency Petroleum Allocation Act of 1973. That section also provided for a special account for the Reserve, into which proceeds from entitlement and Federal royalty oil would be deposited.

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve.

STRATEGIC PETROLEUM RESERVE OFFICE

SEC. 153. There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Secretary, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve.

STRATEGIC PETROLEUM RESERVE

SEC. 154. (a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part. By the end of the 3-year period which begins on the date of enactment of this Act, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 155, if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 159(a)) shall contain not less than 150 million barrels of petroleum products.

(b) The Secretary, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 551, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Secretary's proposals for designing, constructing, and filling the storage and related facilites of the Reserve.

(c)(1) To the maximum extent practicable and except to the extent that any change in the storage schedule is justified pursuant to subsection (e)(6), the Strategic Petroleum Reserve Plan shall provide that:

(A) within 7 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal the total volume of crude oil which was imported into the United States during the base period specified in paragraph (2);

(B) within 18 months after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 10 percent of the goal specified in subparagraph (A);

(C) within 3 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 25 percent of the goal specified in subparagraph (A); and

(D) within 5 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 65 percent of the goal specified in subparagraph (A).

Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil storage in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding the date of enactment of this Act, in which average monthly import levels were the highest.

(d) The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region which the Secretary determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

(e) The strategic Petroleum Reserve Plan shall include:

(1) a comprehensive environmental assessment;

(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

(3) a statement as to the proximity of each such storage facility to related facilities;

(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

(6) a justification of any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c), and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

(7) an estimate of the direct cost of the Reserve, including—

(A) the cost of storage facilities;

(B) the cost of the petroleum products to be stored;

(C) the cost of related facilities; and

(D) management and operation costs;

(8) an evaluation of the impact of developing the Reserve taking into account—

(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;

(B) any fluctuations in world, and domestic, market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;

(C) the extent to which such acquisition may support otherwise declining market prices for such products; and

(D) the extent to which such acquisition will affect competition in the petroleum industry;

(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);

(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;

(11) a statement of the manner in which the provisions of this part relating to the establishment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and

(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.

EARLY STORAGE RESERVE

SEC. 155. (a)(1) The Secretary shall establish an Early Storage Reserve as part of the Strategic Petroleum Reserve. The Early Storage Reserve shall be designed to store petroleum products, to the maximum extent practicable, in existing storage capacity. Petroleum products stored in the Early Storage Reserve may be owned by the United States or may be owned by others and stored pursuant to section 156(b).

(2) If the Strategic Petroleum Reserve Plan has not become effective under section 159(a), the Early Storage Reserve shall contain not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act.

(b) The Early Storage Reserve shall provide for meeting regional needs for residual fuel oil and refined petroleum products in any region which the Secretary determines is, or is likely to become, dependent upon imports of such oil or products for a substantial portion of the total energy requirements of such region.

(c) Within 90 days after the date of enactment of this Act, the Secretary shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from the date of enactment of this Act. Such plan shall detail the Secretary's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth the manner in which Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 159(a). The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve.

INDUSTRIAL PETROLEUM RESERVE

SEC. 156. (a) The Secretary may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the Secretary may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Secretary, except that the Secretary may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Secretary shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Secretary shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the issuance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States.

REGIONAL PETROLEUM RESERVE

SEC. 157. (a) The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Secretary. Such volume shall be computed annually.

(b) To implement the Strategic Petroleum Reserve Plan, the Secretary shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a), a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a), at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period specified in subsection (a), in which average monthly import levels were the highest, as determined by the Secretary. Such volume shall be computed annually.

(c) The Secretary may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversel affecting the fulfillment of the purpose of the Regional Petroleum Reserve.

OTHER STORAGE RESERVES

SEC. 158. Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 154(b), the Secretary shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

(1) Utility Reserves containing coal, residual fuel oil, and refined petroleum products, to be established and maintained by major fossil-fuel-fired baseload electric power generating stations;

(2) Coal Reserves to consist of (A) federally-owned coal which is mined by or for the United States from Federal lands, and (B) Federal lands from which coal could be produced with minimum delay; and

(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other aggreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

REVIEW BY CONGRESS AND IMPLEMENTATION

SEC. 159. (a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

(1) the Secretary has transmitted such Plan to the Congress pursuant to section 154(b); and

(2) neither House of Congress has disapproved (or both Houses have approved) such Plan, in accordance with the procedures specified in section 551.

(b) For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a), the 5 calendar days described in section 551(f)(4)(A) shall be lengthened to 15 calendar days, and the 15 calendar days described in section 511 (c) and (d) shall be lengthened to 45 calendar days.

(c) The Secretary may, prior to transmittal of the Strategic Petroleum Plan, prepare and transmit to the Congress proposals for designing, constructing, and filling storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such Plan, (2) the anticipated role of the proposed storage or related faciliities in such Plan and (3) to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e), requires to be included in the Strategic Petroleum Reserve Plan.

(d) The Secretary may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(e) Any proposal transmittted under subsection (c) and any amendment transmitted under subsection (d), other than a technical or clerical amendment or an amendment to the Early Storage Reserve Plan, shall not become effective and may not be implemented unless—

(1) the Secretary has transmitted such proposal or amendment to the Congress in accordance with subsection (c) or (d) (as the case may be), and

(2) neither House of Congress has disapproved (or both Houses of Congress have approved) such proposal or amendment, in accordance with the procedures specified in section 551.

(f) To the extent necessary or appropriate to implement—

(1) the Strategic Petroleum Reserve Plan which has taken effect pursuant to subsection (a);

(2) the Early Storage Reserve Plan;

(3) any proposal described in subsection (c), or any amendment described in subsection (d), which such proposal or amendment has taken effect pursuant to subsection (e);

(4) any technical or clerical amendment or any amendment to the Early Storage Reserve Plan; and

(5) the storage of petroleum products in interim storage facilities,

the Secretary may:

(A) promulgate rules, regulations, or orders;

(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

(C) construct, purchase, lease, or otherwise acquire storage and related facilities;

(D) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this part;

(E) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

(F) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if such facilities are subject to audit by the United States;

(G) execute any contracts necessary to carry out the provisions of such Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposal or amendment.

(H) require importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories products in the Industrial Petroleum Reserve, pursuant to section 156;

(I) require the storage of petroleum products in the Industrial Petroleum Reserve, pursuant to section 156, on such reasonable terms as the Secretary may specify in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if such facilities are subject to audit by the United States.

(J) require the maintenance of the Industrial Petroleum Reserve;

(K) maintain the Reserve; and

(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having jurisdiction of such proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.

(g) Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgment of the Secretary be futile or so time-consuming as to unreasonably delay the implementation of the Strategic Petroleum Reserve Plan, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

(h)(1) No amendment to the Strategic Petroleum Reserve Plan relating to interim storage facilities shall be required prior to the storage of petroleum products in such facilities.

(2) Petroleum products stored in interim storage facilities pursuant to this part shall be considered to be in storage in the Reserve.

(3)(A) No action relating to the storage of petroleum products in existing interim storage facilities in the Reserve shall be deemed to be "a major Federal action significantly affecting the quality of the human environment" within the meaning of the term as it is used in section 102(2)(C) of the National Environmental Policy Act of 1969.

(B) For purposes of this paragraph, an interim storage facility shall be considered to be an existing interim storage facility if it—

(i) is in existence on July 1, 1982;

(ii) was constructed in a manner appropriate for storing petroleum products; and

(iii) is not modified after July 1, 1982, in any manner which substantially increases the storage capacity of the facility. Any modification of such facility may not include replacement or reconstruction.

(4) The term "interim storage facilities", when used in this part, may include any vessel which meets the applicable requirements under this part.

PETROLEUM PRODUCTS FOR STORAGE IN THE RESERVE

SEC. 160. (a) The Secretary is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange—

(1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;

(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) petroleum products acquired by purchase, exchange, or otherwise.

(b) The Secretary shall, to the greatest extent practicable, acquire petroleum products for the Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve in a manner consonant with the following objectives;

(1) minimization of the cost of the Reserve;

(2) orderly development of the Naval Petroleum Reserves to the extent authorized by law;

(3) minimization of the Nation's vulnerability to a severe energy supply interruption;

(4) minimization of the impact of such acquisition upon supply levels and market forces; and

(5) encouragement of competition in the petroleum industry.

(c)(1)(A) The President shall immediately undertake, and thereafter continue, petroleum products acquisition, transportation, and injection activities, to the extent funds are available pursuant to section 167 (b)(2) and (b)(3), at a level sufficient to assure that the petroleum products in the Strategic Petroleum Reserve will be increased at an average annual rate of at least the minimum required fill rate until the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 500,000,000 barrels.

(B) Subject to subparagraph (C), the minimum required fill rate shall be 300,000 barrels per day for purposes of subparagraph (A), unless there is in effect a finding by the President in his discretion for good cause that compliance with such rate would not be in the national interest. Any finding by the President under this subparagraph takes effect on the date such finding is transmitted to the Congress and ceases to have effect at the end of the fiscal year in which such finding was made. Any such finding transmitted to the Congress shall include a statement of the facts upon which the finding is based. Any such finding shall not be subject to judicial review.

(C) The minimum required fill rate shall be 220,000 barrels per day for purposes of subparagraph (A) during the period in which any finding by the President under subparagraph (B) is in effect.

(D)(i) If funds are available in any given fiscal year after fiscal year 1982 to achieve an average annual fill rate higher than the minimum required fill rate in effect under subparagraph (C), the minimum required fill rate shall be the highest practicable fill rate achievable, subject to the availability of appropriated funds.

(ii) The Impoundment Control Act of 1974 (31 U.S.C. 1400 and following) shall apply to funds made available under section 167 (b) and (e).

(2) After the Strategic Petroleum Reserve reaches a level of 500,000,000 barrels, the President shall immediately seek to undertake, and thereafter continue, petroleum products acquisition, transportation, and injection activities at a level sufficient to

assure that the petroleum products in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day until the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect July 1, 1982.

(d)(1) Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of other than to the Strategic Petroleum reserve (either directly or by exchange) during any fiscal year, except as provided in paragraph (2), unless—

(A) the quantity of crude oil in storage within the Strategic Petroleum Reserve is at least 500,000,000 barrels; or

(B) acquisition, transportation, and injection activities for the Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for that fiscal year.

(2)(A) The requirements of paragraph (1) shall not apply to the United States share of crude oil in the Naval Petroleum Reserve Numbered 1 which is—

(i) sold to small refiners under section 7430(d) of title 10, United States Code;

(ii) produced, consistent with sound engineering practices, for the purpose of preventing a reduction in the total quantity of crude oil available for ultimate recovery from the Naval Petroleum Reserve Numbered 1, and the amount produced is the minimum necessary to prevent such reduction; or

(iii) produced for national defense purposes under section 7422(b)(2) of title 10, United States Code, pursuant to an authorization of Congress under that section during the preceding 9-month period.

(e)(1) The provisions of subsections (c) and (d) shall not apply (A) if there is in effect an order of the President directing drawdown and distribution pursuant to section 161 or (B) if—

(i) the President has found in his discretion that compliance with such provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program;

(ii) the President has transmitted such finding to the Congress in accordance with section 552, together with a request for a suspension of such provisions; and

(iii) such request has been approved by a resolution by each House of the Congress within 60 days of continuous session after the date of its transmittal, in accordance with the provisions of section 552 applicable to energy conservation contingency plans.

(2) The suspension of application of subsections (c) and (d) under paragraph (1)(B) shall take effect on the date on which a resolution approving that request is adopted by the second House to have so approved that request and shall terminate 9 months thereafter, or

such earlier date as is specified in the request transmitted under paragraph (1)(B)(ii).

(3) In applying the provisions of section 552 for purposes of paragraph (1)(B)—

(A) subsections (d)(2) and (d)(7) shall not apply; and

(B) the references to any energy conservation contingency plan shall be considered to refer to a request under this subsection.

(4) The period of any suspension of subsections (c) and (d) under this subsection, and the quantity of any petroleum product involved, shall be disregarded in applying the provisions of such subsections for periods following such suspension.

DRAWDOWN AND DISTRIBUTION OF THE RESERVE

SEC. 161. (a) The Secretary may drawdown and distribute the Reserve only in accordance with the provisions of this section.

(b) Except as provided in subsections (c) and (f), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a).

(c) Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 159(a).

(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(e) The Secretary may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribe by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

(f) The Secretary may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 156 to remove or otherwise dispose of such products upon such terms and conditions as the Secretary may prescribe.

COORDINATION WITH IMPORT QUOTA SYSTEM

SEC. 162. No quantitative restriction on the importation of any petroleum product into the United States imposed by law shall apply to volums of any such petroleum product imported into the United States for storage in the Reserve.

DISCLOSURE, INSPECTION, INVESTIGATION

SEC. 163. (a) The Secretary may require any person to prepare and maintain such records or accounts as the Secretary, by rule, determines necessary to carry out the purposes of this part.

(b) The Secretary may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

(c) The Secretary may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) and (2) any storage facilities subject to audit by the United States under the authority of this part.

NAVAL PETROLEUM RESERVES STUDY

SEC. 164. The Secretary shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Congress within 180 days after the date of enactment of this Act, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Secretary; the Secretary of the Navy shall provide to the Secretary and Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Secretary in the preparation of such report.

ANNUAL REPORTS

SEC. 165. The Secretary shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

(1) a detailed statement of the status of the Strategic Petroleum Reserve;

(2) a summary of the actions taken to develop and implement the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan;

(3) an analysis of the impact and effectiveness of such actions on the vulnerability of the United States to interruption in supplies of petroleum products;

(4) a summary of existing problems with respect to further implementation of the Early Storage Reserve Plan and the Strategic Petroleum Reserve Plan; and

(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Secretary to implement the provisions of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 166. (a) There are authorized to be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 159(a), for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 154(a) or 155(a)(2), whichever is applicable;

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan and to implement such plan which has taken effect pursuant to section 159(a), including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve;

(3) such funds for the fiscal year ending September 30, 1978, not to exceed $1,210,000,000, as are necessary to permit the acquisition and storage of petroleum products in the Strategic Petroleum Reserve, in accordance with the storage schedule set forth in the Strategic Petroleum Reserve Plan then in effect in excess of the minimum volume specified in section 154(a), but not in excess of 500,000,000 barrels; and

(4) for the fiscal year ending September 30, 1982, not to exceed $260,000,000 to carry out the provisions of this part, except—

(A) acquisition, transportation, and injection of petroleum products for the Reserve, and

(B) the carrying out of any drawdown and distribution of the Reserve.

(b)(10 On or before the fifteenth day of the second calendar quarter which begins after the date of the enactment of this subsection and every calendar quarter thereafter, the Secretary shall report to the Congress on activities undertaken with respect to the Strategic Petroleum Reserve under the amendments made by the Strategic Petroleum Reserve Amendments Act of 1981, including—

(A) the amounts of petroleum products stored in the Reserve, under contract and in transit at the end of the previous calendar quarter;

(B) the projected fill rate for the Strategic Petroleum Reserve for the then current calendar quarter and the previous calendar quarter;

(C) the average price of the petroleum products acquired during the previous calendar quarter;

(D) existing and projected Strategic Petroleum Reserve storage capacity and plans to accelerate the acquisition or construction of such capacity;

(E) an analysis of any existing or anticipated problems associated with acquisition, transportation, and storage of petrole-

um products in the Reserve and with the expansion of storage capacity for the Reserve; and

(F) the amount of funds obligated by the Secretary from the SPR Petroleum Account, as well as other funds available for the Reserve, during the previous calendar quarter and in total under the amendments made by such Act.

(2) The first report submitted under paragraph (1) shall include—

(A) a detailed statement on the planned use of the SPR Petroleum Account as well as other funds available for the Strategic Petroleum Reserve;

(B) a description of the current Strategic Petroleum Reserve Plan, including any proposed or anticipated amendments to the Plan; and

(C) detailed plans of the Secretary for acquisition or new construction of storage and related facilities.

SPR PETROLEUM ACCOUNT

SEC. 167. (a) The Secretary of the Treasury shall establish in the Treasury of the United States an account to be known as the "SPR Petroleum Account" (hereinafter in this section referred to as the "Account").

(b) Amounts in the Account may be obligated by the Secretary of Energy for the acquisition, transportation, and injection of petroleum products into the Strategic Petroleum Reserve, and the drawdown and delivery of petroleum products from the Reserve—

(1) in the case of fiscal year 1982, in an aggregate amount, not to exceed $3,900,000,000, as may be provided in advance in appropriation Acts;

(2) in the case of any fiscal year after fiscal year 1982, subject to section 660 of the Department of Energy Organization Act, in such aggregate amounts as may be appropriated in advance in appropriation Acts; and

(3) in the case of any fiscal year, notwithstanding section 660 of the Department of Energy Organization Act, in an aggregate amount equal to the aggregate amount of the receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161.

Funds available to the Secretary of Energy for obligation under this subsection may remain available without fiscal year limitation.

(c) The Secretary of the Treasury shall provide and deposit into the Account such sums as may be necessary to meet obligations of the Secretary of Energy under subsection (b).

(d) The Account, the deposits and withdrawals from the Account, and the transactions, receipts, obligations, outlays associated with such deposits and withdrawals (including petroleum product purchases and related transactions), and the receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161—

(1) shall not be included in the totals of the budget of the United States Government and shall be exempt from any gen-

eral limitation imposed by statute on expenditures and net lending (budget outlays) of the United States; and

(2) shall not be deemed to be budget authority, spending authority, budget outlays, or Federal revenues for purposes of title III of Public Law 93-344, as amended.".

(e)(1) Except as provided in paragraph (2), nothing in this part shall be construed to limit the Account from being used to meet expenses relating to interim storage facilities for the storage of petroleum products for the Strategic Petroleum Reserve.

(2) In any fiscal year, amounts in the Account may not be obligated for expenses relating to interim storage facilities in excess of 10 percent of the total amounts in the Account obligated in such fiscal year. If the amount obligated in any fiscal year for interim storage expenses is less than the amount of the 10-percent limit under the preceding sentence for that fiscal year, then the amount of the 10-percent limit applicable in the following fiscal year shall be increased by the amount by which the limit exceeded the amount obligated for such expenses.

"PART C—EXPIRATION

EXPIRATION

SEC. 171. Except as otherwise provided in title I, all authority under any provision of title I (other than a provision of such title amending another law) and any rule, regulation, or other issued pursuant to such authority, shall expire at midnight, June 30, 1989, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1989.

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TITLE II—STANDBY ENERGY AUTHORITIES

PART A—GENERAL EMERGENCY AUTHORITIES

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PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

INTERNATIONAL OIL ALLOCATION

SEC. 251. (a) The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdic-

tion of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b)(2), such a rule shall remain in effect until amended or rescinded by the President.

(b)(1) No rule under subsection (a) may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such findings to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1)(A).

(c)(1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

(2) No officer or agency of the United States shall have any authority, other than authority under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Neither section 103 of this Act nor section 28(u) of the Mineral Leasing Act of 1920 shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States.

(e) No rule under this section may be put into effect unless—

(1) an international energy supply emergency, as defined in the first sentence of section 252(l)(1), is in effect; and

(2) the allocation of available oil referred to in chapter III of the international energy program has been activated pursuant to chapter IV of such program.

INTERNATIONAL VOLUNTARY AGREEMENTS

SEC. 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) The Secretary, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and

plans of action, which are required to implement the allocation and information provisions of the international energy program.

(c) The standards and procedures prescribed under subsection (b) shall include the following requirements:

(1)(A)(i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action) the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Secretary, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Secretary may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this section. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Secretary, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code; except that (A) matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3) or so much or (b)(4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State, the Secretary, and the Attorney

General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section. Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.

(d)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Secretary, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (k).

(2) Any voluntary agreement or plan or action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Secretary, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are so available as provided in the last sentence of subsection (c)(3). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraphs (3) and (4) of subsection (e).

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

(e)(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Secretary, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by the antitrust laws or the Antitrust Civil Process Act; and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this section.

(f)(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and

708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708A(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of this Act.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

[(j) The authority granted by this section shall terminate at midnight June 30, 1985.]

[(k)] *(j)* In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

[(l)] *(k)* As used in this section and section 254:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

[(m)] *(l)* The authority by this section shall apply only to the development or carrying out of voluntary agreements and plans of action to implement chapters III, IV, and V of the international energy program."

ADVISORY COMMITTEES

SEC. 253. (a) To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program, the Secretary may provide for the establishment of such advisory committes as he determines are necessary. In addition to the requirments specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Ad-

ministration Act of 1974 (whether or not such Act or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular full-time Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(b) A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of title 5, United States Code, except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, or pursuant to a determination under subsection (c).

(c) The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Secretary, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act.

(2) subsection (b) and (c) of section 17 of the Federal Energy Administration Act of 1974.

(3) the requirement under subsection (a) of this section that meetings be open to the public; and

(4) the second sentence of subsection (b);

if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of the international energy program, (B) that such suspension relates solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b)(1) of title 5, United States Code. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

EXCHANGE OF INFORMATION

SEC. 254. (a)(1) Except as provided in subsections (b) and (c), the Secretary, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2)(A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552 (b)(9) or (b)(4) of title 5, United States Code, applies shall, prior to such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest

extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B)(i) Nothwithstanding subparagraph (A) of this paragraph, during an international energy supply, emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency if otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparapragh (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated, or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3)(A) Within 90 days after the date of enactment of this Act, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information and data the confidentiality of which is protected by statute shall not be provided by the Secretary to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Secretary has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act of 1974, respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974;

(2) section 14(b) of the Federal Energy Administration Act of 1974;

(3) section 12 of the Export Administration Act of 1979;

(4) section 9 of title 13, United States Code;

(5) section 1 of the Act of January 27, 1938 (15 U.S.C. 176(a)); and

(6) section 1905 of title 18, United States Code.

RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL ENERGY AGREEMENT

SEC. 255. The purpose of the Congress in enacting this title is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this title may, to the extent authorized by this title, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this title shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

PART C—ENERGY EMERGENCY PREPAREDNESS

CONGRESSIONAL FINDINGS, POLICY, AND PURPOSE

SEC. 271. (a) FINDINGS.—The Congress finds that—

(1) a shortage of petroleum products caused by reductions in imports of petroleum products may occur at any time;

(2) such a shortge may be sufficiently large to cause severe economic dislocations and hardships, or constitute a serious threat to public health, safety, and welfare; and

(3) prior to the occurrence of such a shortage, the Federal Government has a responsibility to be prepared to mitigate the adverse impacts of such a shortage as a supplement to reliance on freemarket pricing and allocation of available petroleum product supplies.

(b) POLICY.—The Congress declares that it shall be the policy of the United States that the Federal Government shall be prepared prior to any shortage of petroleum products to respond to energy emergencies, pursuant to authorities under provisons of law other than this part, as a supplement to reliance on the free market to

mitigate the adverse impacts of a shortage of petroleum products on public health, safety, and welfare.

(c) PURPOSE.—The purpose of this part is to carry out the policy in subsection (b) by providing for the preparation of comprehensive energy emergency response procedures to be available for use by the President under authorities contained in any provision of law other than this part.

PREPARATION FOR PETROLEUM SUPPLY INTERRUPTIONS

SEC. 272. (a) DESCRIPTION OF AVAILABLE LEGAL AUTHORITIES.—(1) The President shall submit to the Congress no later than November 15, 1982, a memorandum of law which describes the nature and extent of the authorities available to the President under existing law to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States.

(2) The memorandum of law required by paragraph (1) shall be prepared by the Attorney General, in consultation with the Secretary of Energy.

(3) The memorandum of law submitted to the Congress pursuant to this subsection shall—

(A) include the following subjects—

(i) activities of the United States in support of the international energy program and the December 10, 1981, International Energy Agency agreement entitled "Decision on Preparation for Future Supply Disruptions" including—

(I) the National Emergency Sharing Organization;

(II) emergency sharing systems; and

(III) the supply right project;

(ii) activities of the United States pursuant to its energy emergency preparedness obligations to the North Atlantic Treaty Organization;

(iii) development and use of the Strategic Petroleum Reserve;

(iv) Government incentives to encourage private petroleum product stocks;

(v) reactivation of the following Executive Manpower Reserves;

(I) the Emergency Electric Power Reserve;

(II) the Emergency Petroleum and Gas Reserve; and

(III) the Emergency Solid Fuels Reserve;

(vi) energy emergency response management in coordination with State and local governments; and

(vii) emergency public information activities; and

(B) distinguish among—

(i) situations involving limited or general war, international tensions that threaten national security, and other Presidentially declared emergencies;

(ii) events resulting in activation of the international energy program; and

(iii) events or situations less severe than those described in clauses (i) and (ii).

(b) COMPREHENSIVE ENERGY EMERGENCY RESPONSE PROCEDURES.—(1) Not later than December 31, 1982, the President shall submit to the Congress comprehensive energy emergency response procedures for implementation, in whole or in part, of the authorities described under subsection (a).

(2) The comprehensive energy emergency response procedures shall—

(A) describe the varius options the President would consider using to implement the authorities described in the memorandum of law submitted under subsection (a) to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States, including a description of the likely sequence in which such options would be taken;

(B) specify how appropriate governmental actions in response to international and domestic energy shortages would be selected and implemented under such options, particularly which official or governmental entity would select and implement such actions, and what procedures would be used in doing so; and

(C) recommend any additional statutory authority the President considers necessary to respond to a severe energy supply interruption or other sustantial reduction in the amount of petroleum products available to the United States.

(c) DISCLAIMERS.—(1) Nothing in this part, or in the comprehensive energy emergency response procedures submitted pursuant to subsection (b), shall—

(A) limit the authority of the President under any provision of law to respond to a reduction in the amount of petroleum products available to the United States; or

(B) grant any authority to the President to respond to a reduction in the amount of petroleum products available to the United States.

(2) No State law or State program in effect on the date of the enactment of this part, or which may become effective thereafter, shall be construed to be superseded by any provision of this part.

PART D—EXPIRATION

EXPIRATION

SEC. 281. All authority under any provision of title II (other than a provision of such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1987, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1987.

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TITLE V—GENERAL PROVISIONS

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PART B—GENERAL PROVISIONS

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EXPIRATION

[SEC. 531. Except as otherwise provided in title I or title II, all authority under any provision of title I or title II (other than a provision of either such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1985.]

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